

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
725 EATERY CORP., etc., *et ano.*, :

Plaintiffs, :

- against - :

Civil Action No.
02 CV 4431 (WHP)

THE CITY OF NEW YORK, et al., :

Defendants. :

-----X
59 MURRAY ENTERPRISES INC., etc., *et al.*, :

Plaintiffs, :

- against - :

Civil Action No.
02 CV 4432 (WHP)

THE CITY OF NEW YORK, et al., :

Defendants. :

-----X
CLUB AT 60TH STREET, INC., etc., *et al.*, :

Plaintiffs, :

- against - :

Civil Action No.
02 CV 8333 (WHP)

THE CITY OF NEW YORK, :

Defendant. :

-----X

336 LLC., etc., *et al.*, :

Plaintiffs, :

- against - :

Civil Action No.
18 CV 3732 (WHP)

THE CITY OF NEW YORK, :

Defendant. :

-----X

**NOTICE OF FILING OF PLAINTIFFS' JOINT APPENDIX VOLUME 2
IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

PLEASE TAKE NOTICE, that Plaintiffs hereby file the within Volume 2 of Plaintiffs' Joint Appendix in the above-captioned actions.

Dated: New York, New York
November 21, 2018

Respectfully,

DANIEL A. SILVER
SILVER & SILVER
One Liberty Square
New Britain, Connecticut 06050-0698
(860) 225-3518

- and -

JENNIFER KINSLEY
Kinsley Law Office
Post Office Box 19478
Cincinnati, Ohio 45219
(513) 708-2595

Attorneys for Plaintiffs
725 Eatery Corp., etc., et ano.

By: s/Daniel A. Silver
Daniel A. Silver

EDWARD S. RUDOFISKY
ZANE and RUDOFISKY
601 West 26th Street, # 1315
New York, New York 10001
(212) 245-2222

Attorneys for Plaintiffs
59 Murray Enterprises, Inc., etc.
et al.

By: s/Edward S. Rudofsky
Edward S. Rudofsky

JOHN H. WESTON
G. RANDALL GARROU
WESTON, GARROU & MOONEY
12121 Wilshire Boulevard, Suite 525
Los Angeles, CA 90025-1176
(310) 442-0072

- and -

ALAN M. ABRAMSON
ABRAMSON & MORAK
35 Worth Street
New York, New York 10013
(212) 226-7098

Attorneys for
Club At 60th Street, Inc., etc., et al.

By: s/John Weston
John Weston

ERICA DUBNO
Fahringer & Dubno
767 Third Avenue, Suite 3600
New York, New York
(212) 319-5351

Attorneys for Plaintiffs
336 LLC, etc., et al.

By: s/Erica T. Dubno
Erica T. Dubno

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

725 EATERY CORP., etc., *et ano.*, :

Plaintiffs, :

- against - :

THE CITY OF NEW YORK, et al., :

Defendants. :

-----X

59 MURRAY ENTERPRISES INC., etc., *et al.*, :

Plaintiffs, :

- against - :

THE CITY OF NEW YORK, et al., :

Defendants. :

-----X

CLUB AT 60TH STREET, INC., etc., *et al.*, :

Plaintiffs, :

- against - :

THE CITY OF NEW YORK, :

Defendant. :

-----X

336 LLC., etc., *et al.*, :

Plaintiffs, :

- against - :

THE CITY OF NEW YORK, :

Defendant. :

-----X

Civil Action No.
02 CV 4431 (WHP)

Civil Action No.
02 CV 4432 (WHP)

Civil Action No.
02 CV 8333 (WHP)

Civil Action No.
18 CV 3732 (WHP)

PLAINTIFFS' JOINT APPENDIX
(VOL. 2 of 17; pp. 0031-0038)

Per the Court's Order of November 7, 2018, Plaintiffs in each of the four above-entitled actions hereby submit their unitary Joint Appendix consisting exclusively of evidentiary documents upon which some or all of the Plaintiffs may choose to rely. The inclusion of documents in this Joint Appendix does not automatically signify an endorsement or promotion of any of these documents by any individual Plaintiff or group of Plaintiffs. That will depend on specific adoption of any of these documents by any Plaintiffs or Group of Plaintiffs in documents they may file with the Court.

The reference below to the "Club Plaintiffs" refers to all the Plaintiffs in Action Nos. 02 CV 4431, 02 CV 4432 and 02 CV 8333. The reference below to the "Bookstore Plaintiffs" refers to all the Plaintiffs in Action No. 18 CV 3732.

TABLE OF CONTENTS

<u>Tab No.</u>	<u>Description of Document</u>	<u>Joint Appendix Starting Page #</u>
	<u>DOCUMENTS SUBMITTED BY CLUB PLAINTIFFS</u>	
	VOLUME 1 (pp. 0001--0030)	
	<u>CLUB PLAINTIFFS' EXPERT DECLARATIONS</u>	
A	Declaration of Michael Berzak Regarding Adult Business Sites in Support of Plaintiffs' Motion for	0001

	Preliminary Injunction	
	<i>Exhibit 1: Sequential Maps of Adult Business Sites in Manhattan, Prepared by Berzak Associates</i>	0019
	VOLUME 2 (pp. 0031--0038)	
	<i>Exhibit 2: Sequential Maps of Adult Business Sites in Queens, Prepared by Berzak Associates</i>	0031
	<i>Exhibit 3: Sequential Maps of Adult Business Sites in the Bronx, Prepared by Berzak Associates</i>	0035
	VOLUME 3 (pp. 0039--0046)	
	<i>Exhibit 4: Sequential Maps of Adult Business Sites in Brooklyn, Prepared by Berzak Associates</i>	0039
	<i>Exhibit 5: Sequential Maps of Adult Business Sites in Staten Island, Prepared by Berzak Associates</i>	0043
	VOLUME 4 (pp. 0047--0338)	
	<i>Exhibit 6: Relevant Portions of AZR § 12-10 (definitions), § 32-01 (commercial zone restrictions on adult uses) and § 42-01 (manufacturing zone restrictions on adult uses)</i>	0047
	<i>Exhibit 7: 1 RCNY § 9000-01</i>	0059
	<i>Exhibit 8: DOB Operations Policy and Procedure Notice No. 17/95</i>	0061
	<i>Exhibit 9: DOB Operations Policy and Procedure Notice No. 6/96</i>	0065
	<i>Exhibit 10: DOB Operations Policy and Procedure Notice No. 7/96</i>	0074

	<i>Exhibit 11: DOB Operations Policy and Procedure Notice No. 8/96</i>	0077
	<i>Exhibit 12: DOB Operations Policy and Procedure Notice No. 4/98</i>	0080
	<i>Exhibit 13: DOB Operations Policy and Procedure Notice No. 6/98</i>	0083
	<i>Exhibit 14: DOB Operations Policy and Procedure Notice No. 7/02</i>	0087
	<i>Exhibit 15: Online DOB handbook published in 2016 entitled “Adult Establishment Applications”</i>	0091
	<i>Exhibit 16: City-generated Map Showing the Gowanus Canal Areas Which are Under Consideration for Zoning Changes Allowing Residential and Mixed Uses</i>	0103
B	Declaration of Michael Berzak in Support of Permitting Issues Presented in Plaintiffs’ Motion for Preliminary Injunction	0105
	<i>Exhibit 1: Curriculum Vitae</i>	0124
	<i>Exhibit 2: NYCAC Title 27 Subchapter 1, Article 10 (Permits)</i>	0126
	<i>Exhibit 3: 1 RCNY § 9000-01</i>	0129
	<i>Exhibit 4: NYCAC § 27-217</i>	0131
	<i>Exhibit 5: NYCAC Title 27 Subchapter 1, Article 9 (Approval of Plans)</i>	0133
	<i>Exhibit 6: Relevant Portions of NYCAC Title 27 Subchapter 1, Article 19 (Issuance of Permits)</i>	0137
	<i>Exhibit 7: DOB’s Buildings Bulletin 2016-010</i>	0140
	<i>Exhibit 8: OPPN # 7/02</i>	0145

	<i>Exhibit 9: DOB Code Note (Adult Establishment Applications)</i>	0149
C	Declaration of Hugh Kelly in Support of Plaintiffs' Motion for Preliminary Injunction	0161
D	Affidavit of Lance Freeman in Support of Plaintiffs' Motion for Preliminary Injunction	0212
	<u>CLUB CLIENTS' DECLARATIONS</u>	
E	Declaration of David M. Talla in Support of Plaintiffs' Motion for Preliminary Injunction	0227
F	Declaration of Keith Warech in Support of Plaintiffs' Motion for Preliminary Injunction	0248
G	Declaration of Anthony Capeci in Support of Plaintiffs' Motion for Preliminary Injunction	0262
H	Declaration of Barry Lipsitz in Support of Plaintiffs' Motion for Preliminary Injunction	0265
I	Declaration of Anthony D'Amico in Support of Plaintiffs' Motion for Preliminary Injunction	0283
J	Declaration of Maurice Kavanagh in Support of Plaintiffs' Motion for Preliminary Injunction	0297
	<u>OTHER ITEMS</u>	
K	Declaration of Edward Rudofsky in Support of Plaintiffs' Motion for Preliminary Injunction Regarding Legislative History and Related Matters	0312
L	Declaration of Edward S. Rudofsky in Support of Plaintiffs' Motion for Preliminary Injunction Regarding the Status of Veil NYC and Headquarters n/k/a Rosewood Theater	0335
	VOLUME 5 (pp. 0339--0519)	

M	Club Plaintiffs' Request To Take Judicial Notice	0339
	<i>Exhibit 1: NYC Council Resolution 1322-1995 ("1995 Ordinance")</i>	0348
	<i>Exhibit 2: NYC Council Resolution 0208-1998 (regarding signage regulations)</i>	0364
	<i>Exhibit 3: NYC Council Resolution 2096-2001 ("2001 Amendments")</i>	0378
	<i>Exhibit 4: Relevant portions of NYC Council Resolution 586-2004 (amending, <i>inter alia</i>, AZR §§ 32-01 & 42-01 regarding adult businesses)</i>	0384
	<i>Exhibit 5: Relevant portions of NYC Council Resolution 499-2010 (amending, <i>inter alia</i>, AZR §§ 32-01 & 42-01 regarding adult businesses)</i>	0391
	<i>Exhibit 6: NYC AZR § 31-17</i>	0394
	<i>Exhibit 7: NYC AZR § 31-18</i>	0397
	<i>Exhibit 8: NYC AZR § 32-01 (multiple versions)</i>	0400
	<i>Exhibit 9: NYC AZR § 32-69 (multiple versions)</i>	0404
	<i>Exhibit 10: NYC AZR § 42-01 (multiple versions)</i>	0408
	<i>Exhibit 11: NYC AZR § 52-11</i>	0412
	<i>Exhibit 12: NYC AZR § 52-61</i>	0415
	<i>Exhibit 13: NYC AZR § 52-734</i>	0419
	<i>Exhibit 14: NYC AZR § 52-77</i>	0423
	<i>Exhibit 15: NYC AZR § 72-41</i>	0427
	<i>Exhibit 16: NYC Administrative Code, Title 27, Chapter 1, Article 9 ("Approval of Plans")</i>	0431

	<i>Exhibit 17:</i> NYC Administrative Code, Title 27, Chapter 1, Article 10 (“Permits”)	0438
	<i>Exhibit 18:</i> NYC Administrative Code, Title 27, Chapter 1, Article 19 (“Issuance of Permits”) (relevant sections)	0444
	<i>Exhibit 19:</i> NYC Administrative Code, Title 27, Chapter 1, Article 22, § 27-217 (“Certificates of Occupancy / Change of Occupancy of Use”)	0457
	<i>Exhibit 20:</i> NYC Dept. of Buildings Administrative Materials: Directive 14 of 1975 (authorizing self-certification of applications for building permits by licensed architects and engineers)	0462
	<i>Exhibit 21:</i> NYC Dept. of Buildings Administrative Materials: Policy and Procedure Notice OPPN 17/95 (prohibiting self-certification of adult uses by architects and engineers)	0466
	<i>Exhibit 22:</i> NYC Dept. of Buildings Administrative Materials: Policy and Procedure Notice OPPN 6/96 (reaffirming prohibition on self-certification of adult uses by architects and engineers)	0483
	<i>Exhibit 23:</i> NYC Dept. of Buildings Administrative Materials: Policy and Procedure Notice OPPN 7/96 (defining “place of worship” and “church”)	0492
	<i>Exhibit 24:</i> NYC Dept. of Buildings Administrative Materials: Policy and Procedure Notice OPPN 8/96 (describing methodology for measuring separation between adult uses and other adult uses or sensitive receptors)	0495
	<i>Exhibit 25:</i> NYC Dept. of Buildings Administrative Materials: Policy and Procedure Notice OPPN 4/98 (definition of “substantial portion”)	0501
	<i>Exhibit 26:</i> NYC Dept. of Buildings Administrative Materials: Policy and Procedure Notice OPPN 6/98 (explanation of “substantial portion” in context of multiple uses)	0505

	<i>Exhibit 27: NYC Dept. of Buildings Administrative Materials: Policy and Procedure Notice OPPN 5/02 (clarifying procedures for self-certification by architects and engineers)</i>	0509
	<i>Exhibit 28: NYC Dept. of Buildings Administrative Materials: OPPN 7/02 (clarifying procedures for seeking adult use “priority” permit)</i>	0516
	VOLUME 6 (pp. 0520--0629)	
	<i>Exhibit 29: NYC Dept. of Buildings Administrative Materials: Policy and Procedure Notice OPPN 1/04 (clarifying procedures for self-certification by architects and engineers)</i>	0520
	<i>Exhibit 30: NYC Dept. of Buildings Administrative Materials: Bulletin 2016-010 (most recent document clarifying procedures for self-certification by architects and engineers)</i>	0532
	<i>Exhibit 31: NYC Dept. of Buildings Administrative Materials: Code Note on Adult Establishment Applications (handbook from DOB website)</i>	0537
	<i>Exhibit 32: NYC Dept. of Buildings Administrative Materials: Rule Title 1, Rules of City of New York § 9000-01 (establishing priority of locations under adult zoning scheme)</i>	0549
	<i>Exhibit 33: Legislative History of 2001 Amendments, 3/21/01 DCP Application No. N 010508 ZRY (to amend the AZR definition of adult establishment)</i>	0551
	<i>Exhibit 34: Legislative History of 2001 Amendments, CEQR Negative Declaration No. 01DCP045Y of 3/23/01, and Environmental Assessment Statement No. 01DCP045Y filed 3/23/01</i>	0563

	VOLUME 7 <u>(pp. 0630--0707)</u>	
	<i>Exhibit 35: Legislative History of 2001 Amendments, Transcript of New York City Planning Commission Public Hearing held 5/23/01</i>	0630
	VOLUME 8 <u>(pp. 0708--0889)</u>	
	<i>Exhibit 36: Legislative History of 2001 Amendments, 8/8/01 New York City Planning Commission Report</i>	0708
	<i>Exhibit 37: Legislative History of 2001 Amendments, Transcript of New York City Planning Commission Public Hearing held 8/8/01</i>	0835
	<i>Exhibit 38: Legislative History of 2001 Amendments, Transcript of 10/1/01 Hearing of Zoning and Franchises Subcommittee of New York City Council</i>	0848
	VOLUME 9 <u>(pp. 0890--1068)</u>	
	<i>Exhibit 39: Legislative History of 2001 Amendments, Correspondence between Edward S. Rudofsky and New York City Council (10/9/01), and David Karnovsky and New York City Council (10/24/01)</i>	0890
	<i>Exhibit 40: Legislative History of 2001 Amendments, Transcript of 10/25/01 Meeting of Zoning and Franchises Subcommittee of New York City Council</i>	0899
	<i>Exhibit 41: Legislative History of 2001 Amendments, Transcript of 10/25/01 Meeting of Land Use Committee of New York City Council</i>	0911
	<i>Exhibit 42: Legislative History of 2001 Amendments, Transcript of 10/31/01 Meeting of the New York City Council</i>	0919

	<i>Exhibit 43: Excerpt of Record On Appeal, Ten’s Cabaret, Inc. v. City of New York, Supreme Court, New York County, Index No. 121197/2002 (“State Action”), Affidavit of David Karnovsky, Counsel to the New York City Department of City Planning, sworn to 10/23/02, filed in State Action on 10/25/02 (without internal Exhibits)</i>	1032
	VOLUME 10 (<u>pp. 1069--1296</u>)	
	<i>Exhibit 44: Excerpts of Record On Appeal, Ten’s Cabaret, Inc. v. City of New York, Supreme Court, New York County, Index No. 121197/2002 (“State Action”), Relevant pages from Transcripts of evidentiary hearing in State Action in Supreme Court, New York County, on 2/23/09 through 3/2/09</i>	1069
	VOLUME 11 (<u>pp. 1297--1381</u>)	
	<i>Exhibit 45: New York City Department of City Planning (“DCP”) Materials, NYC DCP “Manufacturing Districts: M3” webpage (<u>https://www.1.nyc.gov/site/planning/zoning/districts-tools/m3.page</u>)</i>	1297
	<i>Exhibit 46: New York City Department of City Planning (“DCP”) Materials, NYC Department of City Planning “Manufacturing Districts: 1/1/02 to 1/1/12” webpage (<u>https://www.1.nyc.gov/site/planning/zoning/districts-tools/mfg-districts-2002-2012.page</u>)</i>	1300
	<i>Exhibit 47: Studies, Moss and Quing, “<u>The Dynamic Population of Manhattan</u>”, Rudin Center for Transportation Policy and Management of the New York University Wagner School of Public Service (2012) (<u>https://wagner.nyu.edu/files/faculty/publications/dynamic_pop_manhattan.pdf</u>)</i>	1304

	<i>Exhibit 48:</i> Linz and Paul, “Measuring the Secondary Effects of 60/40 Businesses in New York City: A Study of Calls for Service to the Police”, including Figures and Tables (2005) Exhibits 6 and 6A admitted into evidence at evidentiary hearing held on February 23 through March 2, 2009 in <u>Ten’s Cabaret, Inc. v City of New York</u>, Supreme Court, New York County, Index No. 121197/2002	1330
	VOLUME 12 (pp. 1382--1467)	
	<i>Exhibit 49:</i> Studies, Freeman, “Examining The Relationship Between Businesses That Comply With the ‘60/40’ Zoning Regulations and Surrounding Property Values in New York City” (2008) (Exhibit 8 admitted in evidence at evidentiary hearing held on 2/23/09 through 3/2/09 in <u>Ten’s Cabaret, Inc. v. City of New York</u>, Supreme Court, New York County, Index No. 121197/2002	1382
	<i>Exhibit 50:</i> Studies, Focus Probe, Inc., “Perceived Differences Between Adult Entertainment Clubs With ‘Subdued Facades’ vs. ‘Loud Facades’, with photographs (Exhibits 12, 12A, 12B and 12C admitted in evidence at evidentiary hearing held on 2/23/09 through 3/2/09 in <u>Ten’s Cabaret, Inc. v. City of New York</u>, Supreme Court, New York County, Index No. 121197/2002)	1418
	<i>Exhibit 51:</i> New York Court of Appeals Brief, Excerpt from Respondents’ Brief of City of New York, et al., in <u>Stringfellow’s of New York, Inc. v. City of New York</u>, New York County Index Nos. 113049/96 103568/96 and 103569/96, filed in New York Court of Appeals, dated 12/11/97	1443

	<i>Exhibit 52: Excerpts from September 3, 1996 deposition testimony of Marilyn Mammamo, Director of Zoning & Urban Design of the NYC Department of City Planning, in <u>Hickerson v. The City of New York</u>, New York County Index No. 103569/96</i>	1448
	<i>Exhibit 53: Undocketed Correspondence With Court, Litigation Management Agreement dated 9/25/17 (Exhibit B to 3/2/18 letter from Plaintiffs to Hon. William Pauley) in all current club cases</i>	1459
	<u>DOCUMENTS SUBMITTED BY BOOKSTORE PLAINTIFFS</u>	
	<u>VOLUME 13 (pp. 1468--1574)</u>	
N	Declaration of Dr. Elliott Sclar in Support of Plaintiffs' Motion for Preliminary Injunction	1468
	<i>Exhibit 1: Dr. Sclar's Curriculum Vitae</i>	1515
	<i>Exhibit 2: Maps Prepared by the Department of City Planning in Support of the 1995 Resolution Showing Permissible Areas for Adult Establishments</i>	1539
	<i>Exhibit 3: Maps Prepared by the Department of City Planning Showing Zoning Changes between 1995 and 2001 in Support of the 2001 Resolution</i>	1545
	<i>Exhibit 4: Reports issued by the Department of City Planning and Information in the Press Confirming the Effectiveness of Mayor Bloomberg's Administration in Rezoning New York City</i>	1561

	VOLUME 14 (pp. 1575--1683)	
	<i>Exhibit 5: Report Prepared by the Department of City Planning Detailing the Reduction in Manufacturing Districts between 2002 and January 2012</i>	1575
	<i>Exhibit 6: Map Depicting Zoning Changes in New York City between January 2002 and September 2018</i>	1594
	<i>Exhibit 7: Table 1: List of Adopted Rezoning that Impacted Manufacturing Use</i>	1596
	<i>Exhibit 8: Table 2: List of Certified Rezoning that Impact Manufacturing Use</i>	1603
	<i>Exhibit 9: Map of Anticipated Mandatory Inclusion Housing (“MIH”) Rezoning</i>	1605
	<i>Exhibit 10: Department of City Planning Report on City Planning History</i>	1607
	<i>Exhibit 11: MTA Staten Island Railway (“SIR”) System Map</i>	1612
	<i>Exhibit 12: Map Showing the Staten Island Railway Route Superimposed on the Map of Permissible Areas on Staten Island Prepared by the Department of City Planning in Support of the 1995 Resolution</i>	1614
O	Declaration of Daniel J. Zazzali in Support of Plaintiffs’ Motion for Preliminary Injunction	1616
P	Declaration of Daniel Knecht in Support of Plaintiffs’ Motion for Preliminary Injunction	1643

	<i>Exhibit 1: Map of Public Transportation between the Plaintiffs' Bookstore at 336 Eighth Avenue, in Manhattan, and the Only Permissible Adult Bookstore with booths, on Staten Island</i>	1659
Q	Declaration of Yitzik Shachaf in Support of Plaintiffs' Motion for Preliminary Injunction	1662
R	Declaration of Erica T. Dubno in Support of Plaintiffs' Motion for Preliminary Injunction	1670
	VOLUME 15 (pp. 1684--1755)	
S	Bookstore Plaintiffs' Request to Take Judicial Notice	1684
	<i>Exhibit 54: Z.R. § 42-11</i>	1691
	<i>Exhibit 55: Z.R. § 42-13</i>	1694
	<i>Exhibit 56: New York City Charter § 85 "Borough Board"</i>	1698
	<i>Exhibit 57: DCP "Use Groups" webpage</i>	1702
	<i>Exhibit 58: DCP "Manufacturing Districts: Overview" webpage</i>	1707
	<i>Exhibit 59: DCP City Planning History webpage</i>	1710
	<i>Exhibit 60: DCP "Community-Based Planning" webpage</i>	1715
	<i>Exhibit 61: DCP "Special Purpose Districts: Citywide" webpage</i>	1722
	<i>Exhibit 62: DCP "Special Purpose Districts" webpage</i>	1730

	<i>Exhibit 63: DCP Press Release, November 15, 2011, containing “Mayor Michael Bloomberg’s Remarks at Zoning the City Conference, as Delivered by Deputy Mayor Robert K. Steel</i>	1732
	<i>Exhibit 64: DCP’s Portion of the Mayor’s Management Report, dated September 2012</i>	1736
	<i>Exhibit 65: Excerpts from NYC’s Risk Landscape: A Guide to Hazard Mitigation, Coastal Erosion Chapter 4.2, developed by the NYC Emergency Management in Partnership with the DCP and Close Collaboration with the NYC Mayor’s Office of Recovery and Resiliency</i>	1741
	<u>VOLUME 16</u> <u>(pp. 1756--1852)</u>	
	<i>Exhibit 66: Excerpts from the NYC Building Department’s “Place of Assembly” guide</i>	1756
	<i>Exhibit 67: Excerpts from the NYC Fire Department’s “Theater Inspections, Maintenance and Recordkeeping” Rules</i>	1759
	<i>Exhibit 68: MTA Staten Island Railway (“SIR”) System Map</i>	1765
	<i>Exhibit 69: MTA Notice regarding Bridges and Tunnels Tolls</i>	1767
	<i>Exhibit 70: Zoning and the Comprehensive Plan, James A. Coon Local Government Technical Series, Revised 2015</i>	1772
	<i>Exhibit 71: NYS Public Health Law § 3000-d</i>	1791
	<i>Exhibit 72: Charles V. Bagli, “Going Out With a Building Boom, Mayor Pushes Billions in Projects”, N.Y. Times, Dec. 15, 2013</i>	1795

	<i>Exhibit 73: Ford Fessenden, “The Bloomberg Years: Reshaping New York”, N.Y. Times, Aug. 18, 2013 (interactive feature)</i>	1801
	<i>Exhibit 74: “Mayor Bloomberg’s NYC Mayoralty Comes To An End”, dailyfreeman.com, Dec. 31, 2013</i>	1803
	<i>Exhibit 75: James Dao, “The 1993 Elections: Staten Island; Secession is Approved; Next Move is Albany’s”, N.Y. Times, Nov. 3, 1993</i>	1806
	<i>Exhibit 76: Maps (Reduced Size Versions) Generated by the DCP of Manhattan, Brooklyn, Bronx, Queens, and Staten Island indicating “Areas Where Adult Uses Would Continue to be Allowed Under the Proposal and Encumbered Property Within those Areas” filed in State Judicial Proceedings in Connection with the 1995 Resolution: <u>Amsterdam Video, Inc. v. City of New York</u>, Supreme Court, New York County, Index No. 103568/96, and <u>Hickerson v. City of New York</u>, Supreme Court, New York County, Supreme Court, New York County, Index No. 103569/96</i>	1810
	<i>Exhibit 77: Excerpts from September 3, 1996 deposition testimony of Marilyn Mammano, Director of Zoning & Urban Design of the NYC Department of City Planning, in <u>Hickerson v. The City of New York</u>, New York County Index No. 103569/96</i>	1816
	<i>Exhibit 78: Maps generated by the DCP depicting the reduction in permissible areas for adult businesses based on Zoning Changes between 1995 and 2001, filed in <u>For the People Theatres</u> on October 17, 2002, as Exhibit S to the Affidavit of David Karnovsky</i>	1838

	VOLUME 17 (pp. 1854--1881)	
	<i>Exhibit 79: Excerpts from Affidavit of David Karnovsky filed in <u>For The People Theatres of N.Y., Inc., et al. v. The City of New York, et al.</u>, New York County Supreme Court Index No. 121080/02</i>	1854
	<i>Exhibit 80: Excerpts from the DCP's Adult Entertainment Study, November 1994</i>	1864
	<i>Exhibit 81: 8/2/17 Stipulation and Agreement between Bookstore Plaintiffs and The City of New York</i>	1875

Dated: New York, New York
November 21, 2018

Respectfully,

**DANIEL A. SILVER
SILVER & SILVER**

One Liberty Square
New Britain, Connecticut 06050-0698
(860) 225-3518

- and -

JENNIFER KINSLEY

Kinsley Law Office
Post Office Box 19478
Cincinnati, Ohio 45219
(513) 708-2595

*Attorneys for Plaintiffs
725 Eatery Corp., etc., et ano.*

By: s/Daniel A. Silver
Daniel A. Silver

**EDWARD S. RUDOFSKY
ZANE and RUDOFSKY**

601 West 26th Street, # 1315
New York, New York 10001
(212) 245-2222

*Attorneys for Plaintiffs
59 Murray Enterprises, Inc., etc.
et al.*

By: s/Edward S. Rudofsky
Edward S. Rudofsky

**JOHN H. WESTON
G. RANDALL GARROU
WESTON, GARROU & MOONEY**

12121 Wilshire Boulevard, Suite 525
Los Angeles, CA 90025-1176
(310) 442-0072

- and -

**ALAN M. ABRAMSON
ABRAMSON & MORAK**

35 Worth Street
New York, NY 10013
(212) 226-7098

*Attorneys for
Club At 60th Street, Inc., etc., et al.*

By: s/John Weston
John Weston

FAHRINGER & DUBNO

767 Third Avenue, Suite 3600
New York, New York 10017
(212) 319-5351

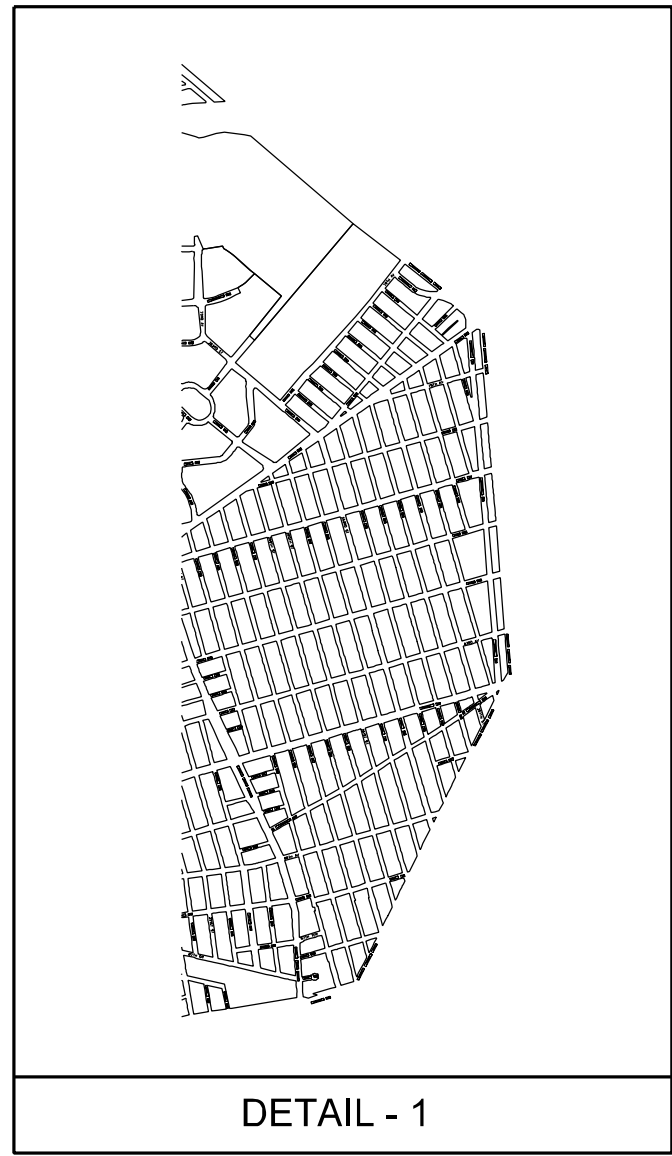
*Attorneys for Plaintiff's
336 LLC, etc., et al.*

By: s/Erica T. Dubno
Erica T. Dubno

Exhibit 2

Series of Maps for Queens Comparing City's
1995 Maps with Maps Showing All Relevant
Subsequent Rezoning

EXHIBIT 2 - A



SEE
DETAIL - 1

QUEENS

DIGITIZED RECREATION OF DCP'S MAP NO. 90512 (6/30/95). SHOWS ALL AREAS IN QUEENS CITY CONTEDED WERE AVAILABLE IN 1995 FOR ADULT USES, INCLUDING ENCUMBERED AREAS CITY DEEMED NOT COUNTABLE

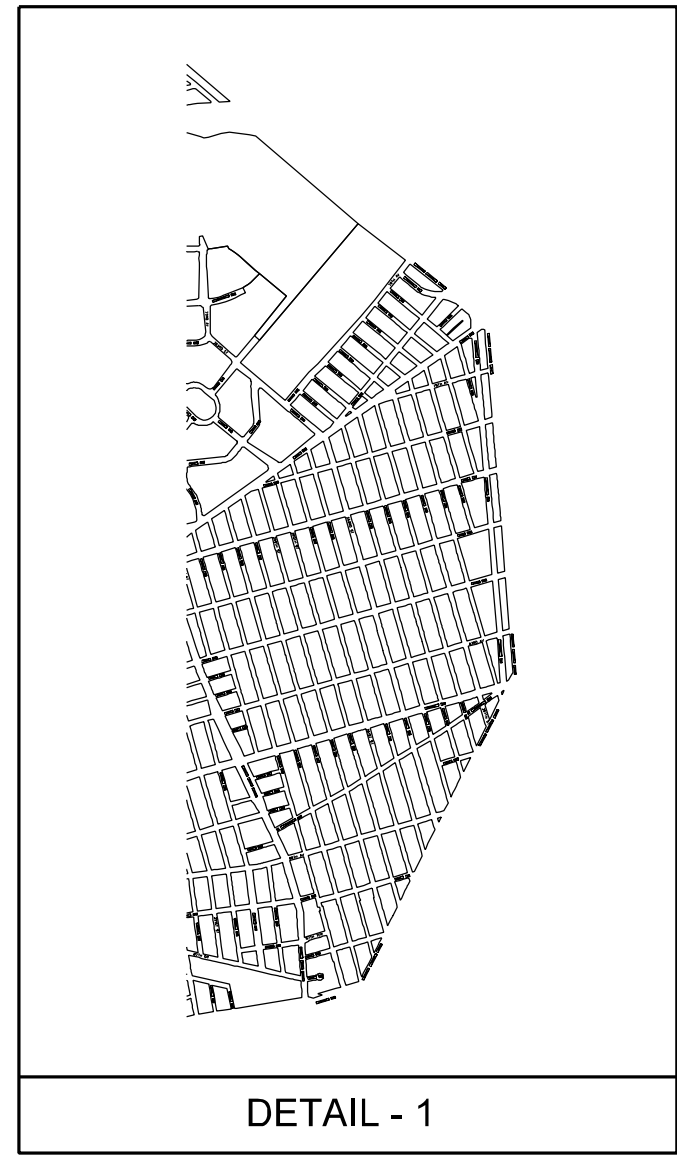
- AREAS ZONED M1, C7 OR C8 WHERE CITY CONTEDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD EXIST UNDER 1995 AMENDMENTS
- AREAS ZONED M2 OR M3 WHERE CITY CONTEDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD EXIST UNDER 1995 AMENDMENTS
- AREAS ZONED OX-4, OX-5, OX-6, OX-7, OX-8, OX-9 WHERE CITY CONTEDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD EXIST UNDER 1995 AMENDMENTS
(NO AREA IN THIS CATEGORY WAS SHOWN ON THE CITY'S 1995 MAP FOR THIS BOROUGH)
- SITES IDENTIFIED BY CITY AS PERMISSIBLE, BUT "ENCUMBERED" (AND THEREFORE NOT INCLUDED BY CITY). "ENCUMBERED" SITES INCLUDE AIRPORTS, UTILITIES, FUEL TANK FARMS, TRANSPORTATION RIGHTS-OF-WAY, LARGE MUNICIPAL FACILITIES, CERTAIN LARGE PARCELS OF PUBLICLY OWNED LAND, AND AREAS CHARACTERIZED BY WETLANDS
- AREAS LEGALLY PERMISSIBLE FOR ADULT USES IN 1995 WHICH THE CITY'S 1995 MAP SHOWED AS SUBJECT TO PROPOSED FUTURE ZONE CHANGES RENDERING THOSE AREAS IMPERMISSIBLE FOR ADULT USES

SOURCE OF DATA: DEPARTMENT OF CITY PLANNING, MAP#90512 (6/30/95)
BASE MAP: DEPARTMENT OF CITY PLANNING, TAX BLOCK BASE MAP FILES, RELEASE 98A2 (6/98)

0 2000 4000
FEET



EXHIBIT 2 - B



QUEENS

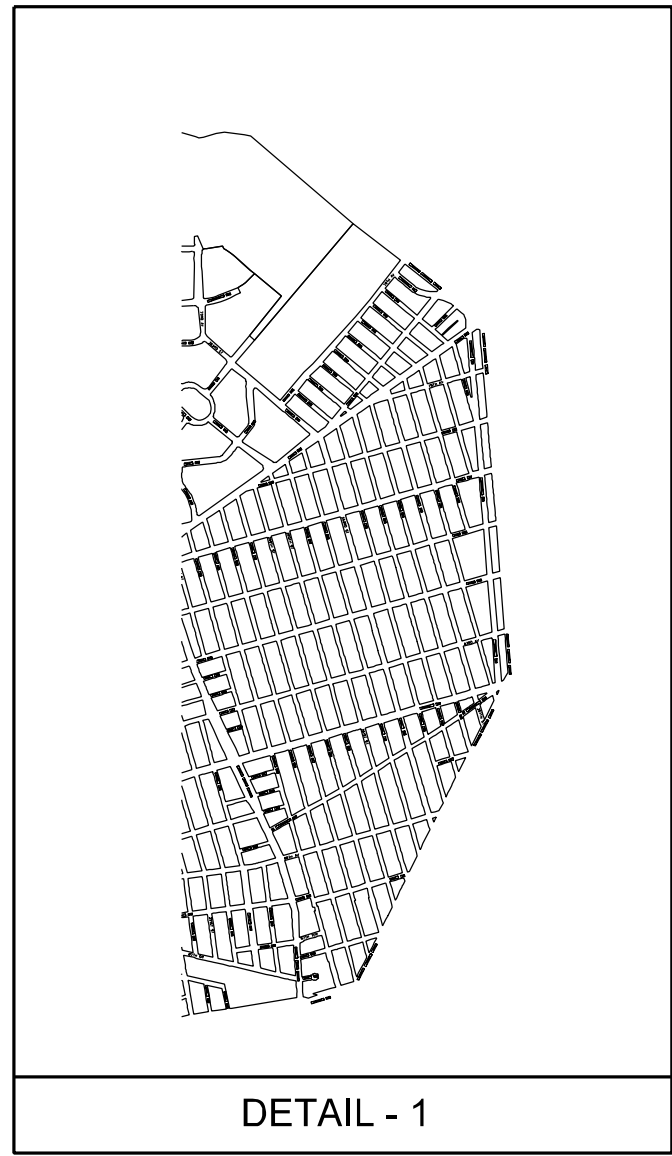
REPRODUCES MAP A, BUT WITHOUT "ENCUMBERED" AREAS

- REMAINING AREAS ZONED M1, C7 OR C8 WHERE CITY CONTENDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- REMAINING AREAS ZONED M2 OR M3 WHERE CITY CONTENDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- REMAINING AREAS ZONED C6-4, C6-5, C6-6, C6-7, C6-8, C6-9 WHERE CITY CONTENDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
(NO AREA IN THIS CATEGORY WAS SHOWN ON THE CITY'S 1995 MAP FOR THIS BOROUGH)
- AREAS LEGALLY PERMISSIBLE FOR ADULT USES IN 1995 WHICH THE CITY'S 1995 MAP SHOWED AS SUBJECT TO PROPOSED FUTURE ZONE CHANGES RENDERING THOSE AREAS IMPERMISSIBLE FOR ADULT USES

0 2000 4000
FEET



EXHIBIT 2 - C



QUEENS

REPRODUCES MAP B, BUT SHOWS AREAS RENDERED IMPERMISSIBLE BY CUMULATIVE RE-ZONINGS SINCE 1995

- REMAINING AREAS ZONED M1, C7 OR C8 WHERE CITY CONTENTED THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- REMAINING AREAS ZONED M2 OR M3 WHERE CITY CONTENTED THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- REMAINING AREAS ZONED C6-A, C6-S, C6-B, C6-7, C6-B, C6-9 WHERE CITY CONTENTED THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
(NO AREA IN THIS CATEGORY WAS SHOWN ON THE CITY'S 1995 MAP FOR THIS BOROUGH)
- AREAS WITHIN ANY OF THE ZONES DESCRIBED ABOVE WHICH HAVE BEEN RE-ZONED SINCE 1995 AS EITHER: (1) RESIDENTIAL; (2) COMMERCIAL ZONES WHERE ADULT USES ARE PROHIBITED; (3) ALL MANUFACTURING DISTRICTS WHERE RESIDENCES ARE ALLOWED UNDER SPECIAL PERMIT OR AUTHORIZATION; AS WELL AS ALL AREAS WITHIN 500 FEET OF ANY SUCH REZONED RESIDENTIAL AND MANUFACTURING AREAS; AND C1, C2, C3, C4, C5-1, C6-1, C6-2 AND C6-3 DISTRICTS.

ZONING INFORMATION: THE NEW YORK CITY PLANNING COMMISSION ZONING MAPS UPDATED AS OF 03/23/18.

0 2000 4000
FEET



Exhibit 3

Series of Maps for the Bronx Comparing
City's 1995 Maps with Maps Showing All
Relevant Subsequent Rezoning

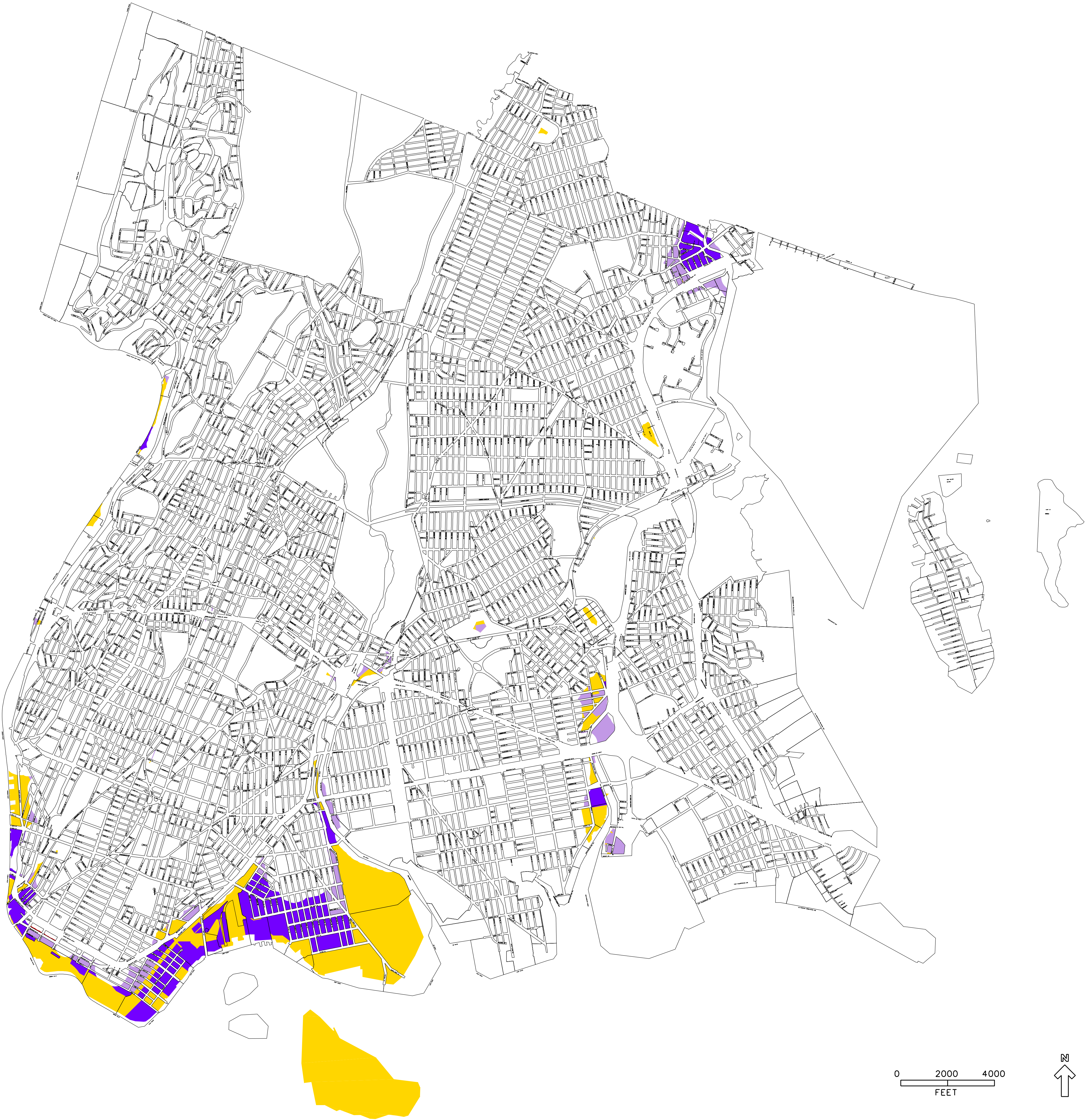
THE BRONX

DIGITIZED RECREATION OF DCP'S MAP NO. 90512 (6/29/95). SHOWS ALL AREAS IN THE BRONX CITY CONTEDED WERE AVAILABLE IN 1995 FOR ADULT USES, INCLUDING ENCUMBERED AREAS CITY DEEMED NOT COUNTABLE

EXHIBIT 3 - A

- AREAS ZONED M1, C7 OR C8 WHERE CITY CONTEDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD EXIST UNDER 1995 AMENDMENTS
- AREAS ZONED M2 OR M3 WHERE CITY CONTEDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD EXIST UNDER 1995 AMENDMENTS
- AREAS ZONED C6-4, C6-5, C6-6, C6-7, C6-8, C6-9 WHERE CITY CONTEDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD EXIST UNDER 1995 AMENDMENTS
(NO AREA IN THIS CATEGORY WAS SHOWN ON THE CITY'S 1995 MAP FOR THIS BOROUGH)
- SITES IDENTIFIED BY CITY AS PERMISSIBLE, BUT "ENCUMBERED" (AND THEREFORE NOT INCLUDED BY CITY). "ENCUMBERED" SITES INCLUDE AIRPORTS, UTILITIES, FUEL TANK FARMS, TRANSPORTATION RIGHTS-OF-WAY, LARGE MUNICIPAL FACILITIES, CERTAIN LARGE PARCELS OF PUBLICLY OWNED LAND, AND AREAS CHARACTERIZED BY WETLANDS
- AREAS LEGALLY PERMISSIBLE FOR ADULT USES IN 1995 WHICH THE CITY'S 1995 MAP SHOWED AS SUBJECT TO PROPOSED FUTURE ZONE CHANGES RENDERING THOSE AREAS IMPERMISSIBLE FOR ADULT USES
(NO AREA IN THIS CATEGORY WAS SHOWN ON THE CITY'S 1995 MAP FOR THIS BOROUGH)

SOURCE OF DATA: DEPARTMENT OF CITY PLANNING, MAP#90512 (6/29/95)
BASE MAP: DEPARTMENT OF CITY PLANNING, TAX BLOCK BASE MAP FILES, RELEASE 98A2 (6/98)



BERZAK ASSOCIATES ARCHITECTS, P.C. SHALL NOT BE RESPONSIBLE FOR ANY DAMAGES
CONSEQUENTIAL OR ACTUAL, ARISING OUT OF OR IN CONNECTION WITH THE USE OF THIS MAP.
NOVEMBER 14, 2018

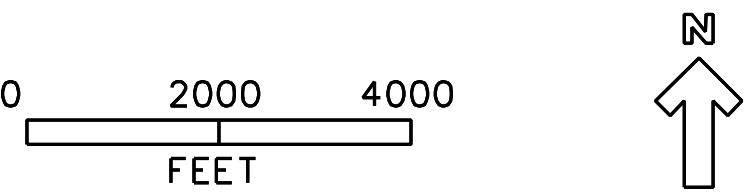
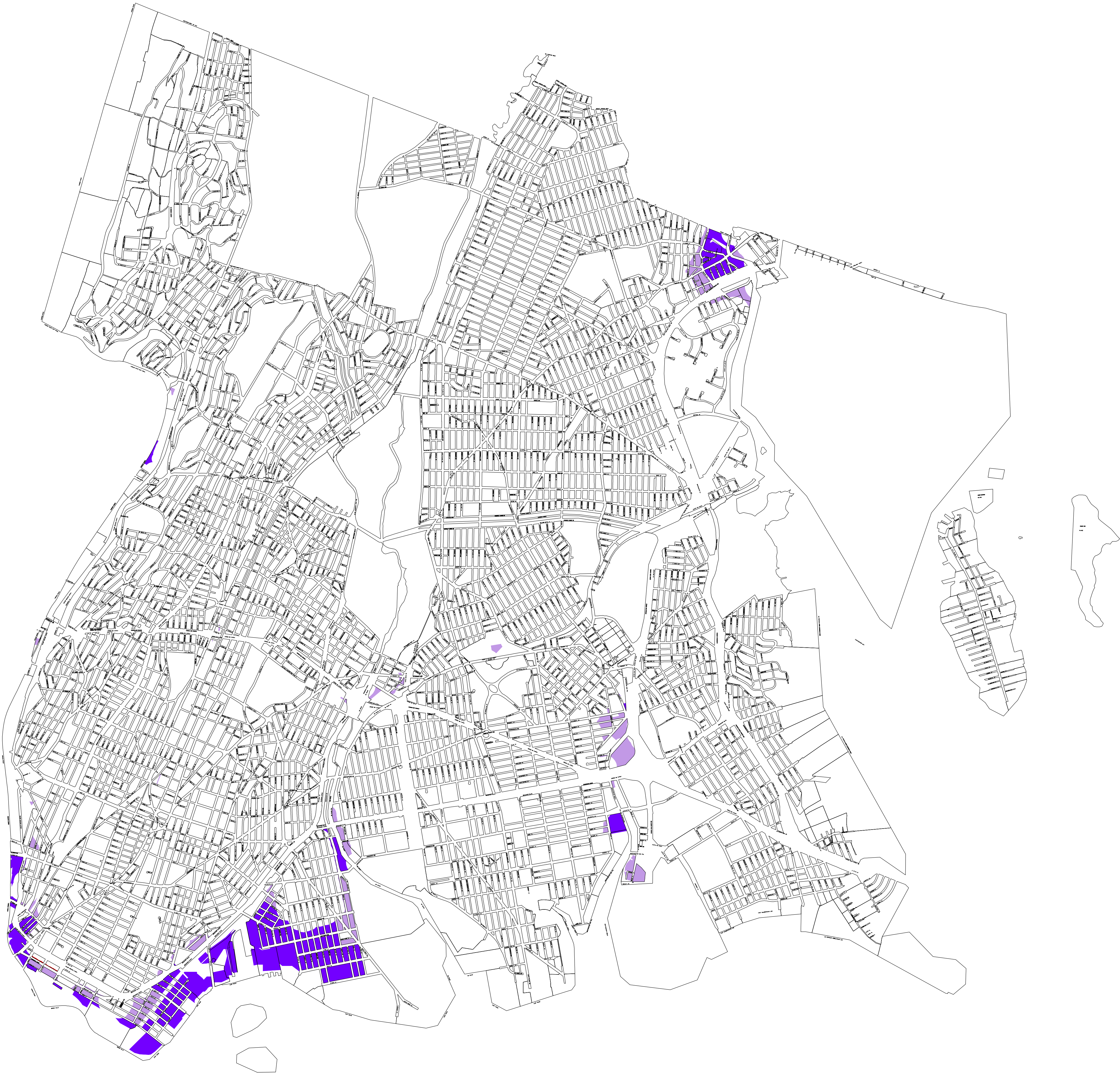
BERZAK
associates architects pc
110 west 34th st., 6th floor, ny, ny 10001
t:212.505.3350, f:212.505.3734
www.berzakarchitects.com

THE BRONX

REPRODUCES MAP A, BUT WITHOUT "ENCUMBERED" AREAS

EXHIBIT 3 - B

- REMAINING AREAS ZONED M1, C7 OR C8 WHERE CITY CONTEMDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- REMAINING AREAS ZONED M2 OR M3 WHERE CITY CONTEMDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- REMAINING AREAS ZONED C6-4, C6-5, C6-6, C6-7, C6-8, C6-9 WHERE CITY CONTEMDED THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
(NO AREA IN THIS CATEGORY WAS SHOWN ON THE CITY'S 1995 MAP FOR THIS BOROUGH)
- AREAS LEGALLY PERMISSIBLE FOR ADULT USES IN 1995 WHICH THE CITY'S 1995 MAP SHOWED AS SUBJECT TO PROPOSED FUTURE ZONE CHANGES RENDERING THOSE AREAS IMPERMISSIBLE FOR ADULT USES
(NO AREA IN THIS CATEGORY WAS SHOWN ON THE CITY'S 1995 MAP FOR THIS BOROUGH)



BERZAK ASSOCIATES ARCHITECTS, P.C. SHALL NOT BE RESPONSIBLE FOR ANY DAMAGES
CONSEQUENTIAL OR ACTUAL, ARISING OUT OF OR IN CONNECTION WITH THE USE OF THIS MAP
NOVEMBER 14, 2018

BERZAK
associates architects pc
110 west 34th st., 6th floor, ny, ny 10001
t:212.505.3350, f:212.505.3734
www.berzakarchitects.com

THE BRONX

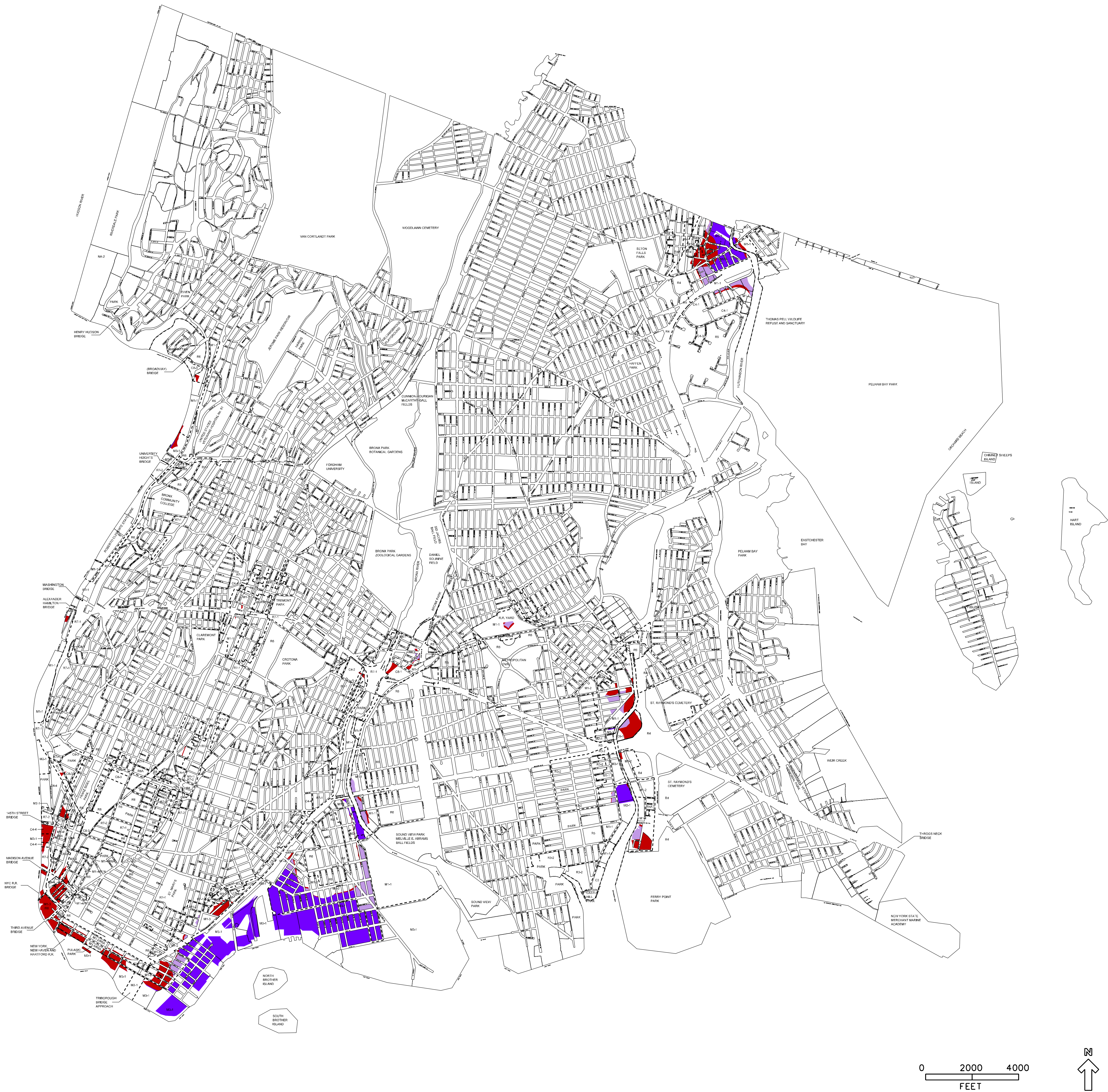
REPRODUCES MAP B, BUT SHOWS AREAS RENDERED
IMPERMISSIBLE BY CUMULATIVE RE-ZONINGS SINCE 1995

EXHIBIT 3 - C

- REMAINING AREAS ZONED M1, C7 OR C8 WHERE CITY CONTEDED
THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- REMAINING AREAS ZONED M2 OR M3 WHERE CITY CONTEDED
THAT ADULT ENTERTAINMENT USES IN 1995 COULD HAVE LOCATED
- REMAINING AREAS ZONED C6-4, C6-5, C6-6, C6-7, C6-8, C6-9
WHERE CITY CONTEDED THAT ADULT ENTERTAINMENT USES
IN 1995 COULD HAVE LOCATED

(NO AREA IN THIS CATEGORY WAS SHOWN ON THE CITY'S 1995 MAP FOR THIS BOROUGH)
- AREAS WITHIN ANY OF THE ZONES DESCRIBED ABOVE WHICH HAVE BEEN
RE-ZONED SINCE 1995 AS EITHER: (1) RESIDENTIAL; (2) COMMERCIAL ZONES
WHERE ADULT USES ARE PROHIBITED; (3) ALL MANUFACTURING DISTRICTS
WHERE RESIDENCES ARE ALLOWED UNDER SPECIAL PERMIT OR AUTHORIZATION;
AS WELL AS ALL AREAS WITHIN 500 FEET OF ANY SUCH REZONED RESIDENTIAL AND
MANUFACTURING AREAS, AND C1, C2, C3, C4, C5-1, C5-2 AND C5-3 DISTRICTS.

ZONING INFORMATION: THE NEW YORK CITY PLANNING COMMISSION ZONING MAPS UPDATED AS OF 04/05/18.



BERZAK ASSOCIATES ARCHITECTS, P.C. SHALL NOT BE RESPONSIBLE FOR ANY DAMAGES
CONSEQUENTIAL OR ACTUAL, ARISING OUT OF OR IN CONNECTION WITH THE USE OF THIS MAP
NOVEMBER 14, 2018

BERZAK
associates architects pc
110 west 34th st., 6th floor, ny, ny 10001
t:212.505.3350, f:212.505.3734
www.berzakarchitects.com